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State of Louisiana
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION

June 2, 2021

LOUISIANA ETHICS ADMINISTRATION PROGRAM
P.O. Box 4368
Baton Rouge, Louisiana 70821

Via Hand Delivery

Re: LAC 43:XIX.Subpart 1.Chapter 6 Procedures Employee Participation Request for Advisory Opinion

Dear Ethics Board Representative:

The Office of Conservation (OC) is requesting a Code of Governmental Ethics advisory opinion for an agency staff employee/father-in-law employment relationship matter as pertains to the agency's statutory obligation to approve a feasible plan pursuant to a La. R.S. 30:29 court referral of admission of oilfield site environmental damage.

La. R.S. 30:29 applies to litigation where a landowner has filed a court petition alleging a party or parties caused environmental damage resulting from oilfield site operations on their property. La. R.S. 30:29 allows a defendant in a lawsuit to admit liability for environmental damage whereby, upon notice of such, the reviewing court shall refer the matter to OC to conduct a public hearing to approve or structure a plan which OC determines to be the most feasible plan to evaluate or remediate the environmental damage. Upon receipt of a court order referring an admitting party to OC for a feasible plan determination, the agency follows the requirements of LAC 43:XIX.Subpart 1.Chapter 6 Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites in Accordance with R.S. 30:29 (Chapter 6 Procedures) for hearing testimony, gathering evidence, and obtaining all necessary and pertinent information to ultimately approve or develop a most feasible plan, including estimated costs to implement the plan, to deliver to the reviewing court.

Although the law states: "There shall be a rebuttable presumption that the plan approved or structured by the department, after consultation with the Department of Environmental Quality as appropriate, shall be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards pursuant to the provisions of R.S. 30:29. For cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party.", the law clearly establishes the final decision as to the most feasible plan that will be implemented remains in the court's jurisdiction. La. R.S. 30:29.C.(5): "The court shall adopt the plan approved by the department, unless a party proves by a preponderance of the evidence that another plan is a more feasible plan to adequately protect the environment and the public health, safety, and welfare." La. R.S. 30:29.C.(6)(c) further provides that the appellate court may affirm the trial court's adoption of a plan or may adopt another feasible plan.

Mr. Gary W. Snellgrove is employed with the Louisiana Department of Natural Resources, Office of Conservation as the director of the Environmental Division. Part of his job duties and responsibilities includes overseeing and active

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**Request for Ethics Opinion
Office of Conservation**

June 2, 2021

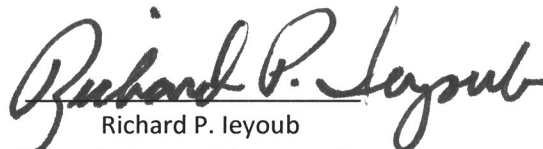
participation in all aspects of implementation of Chapter 6 Procedures concluding with the agency's most feasible plan approval to submit to the reviewing court. Implementation of Chapter 6 procedures includes the selection of a feasible plan public hearing panel of OC staff that for this particular matter would include Mr. Snellgrove and other key Environmental Division staff. Once the hearing is complete and the panel has concluded review, evaluation and deliberation of the plan(s) submitted for consideration along with all testimony and related information presented prior to, during and after the hearing, the panel submits a preliminary draft feasible plan recommendation for my review, edit and approval. Following my approval, the preliminary plan is submitted to the Department of Natural Resources, Department of Environmental Quality and Department of Agriculture and Forestry for review and comment. With any other agency comments addressed, a final feasible plan approved by me is issued to the reviewing court.

Mr. Snellgrove's participation in the above process is very important to our office to ensure that that we timely meet the mandates of the law to deliver a feasible plan to the court once court referral of an admission of environmental damage is received by our office, however the feasible plan decision and approval is one for Mr. Snellgrove's appointing authority to make, that being the OC Commissioner.

On May 14, 2021, OC received notification of a limited admission with the submission of the admitting party's plan pursuant to La. R.S. 30:29 and Chapter 6 Procedures. The landowner of the property that the admitting party's plan proposes to address environmental damage is represented by a law firm which employs Mr. Snellgrove's father-in-law as a practicing attorney who may benefit with legal fees charged to their client, the landowner, while participating in the Chapter 6 process. Mr. Snellgrove's father-in-law's firm has submitted a written request for Mr. Snellgrove to be recused from participation in the limited admission feasible plan process.

As detailed above, the feasible plan process includes a panel of staff scientists, input from three other agencies, an interactive open public hearing process, the Commissioner's approval of the feasible plan, court jurisdiction for final feasible plan decision and an appellate process on the same. For these reasons, it is the opinion of the Office of Conservation that there are no apparent governmental ethics concerns with Mr. Snellgrove's participation in the feasible plan procedures for the May 14, 2021 limited admission. However, since OC has received a request for Mr. Snellgrove's recusal from Chapter 6 Procedures participation, the Office of Conservation (OC) is requesting an advisory opinion as to whether the Code of Governmental Ethics would prohibit Mr. Snellgrove from active participation in feasible plan Chapter 6 Procedures for the May 14, 2021 limited admission described above and for any future Chapter 6 Procedures participation where the landowner has hired Mr. Snellgrove's father-in-law's firm as legal counsel for the matter.

Yours very truly,


Richard P. Ieyoub
Commissioner of Conservation